

All of claims were rejected under 35 USC 112, second paragraph, as being indefinite in the expression "arterial thrombotic complications associated with atherosclerosis."

Applicant respectfully traverses this ground of rejection since the amended claims are believed to comply with 35 USC 112. Claim 8 has now been amended to be directed to a method of ~~combatting the development of atherosclerosis~~ and this is clearly supported by the last paragraph of page 6 of the application. Therefore, the claims are not indefinite and withdrawal of this ground of rejection is requested.

All of the claims stand rejected under 35 USC 103 as being anticipated by Agouridas et al which, according to the Examiner, teaches a method of combatting bacterial infection in warm-blooded animals by administering an effective amount of a ketolide or a salt thereof and therefore, the Examiner deems the claims to be directed to the same treatment as the reference.


Applicant respectfully traverses this ground of rejection since the Agouridas et al patent does not anticipate or render obvious Applicant's invention which is drawn to a method of combatting the development of atherosclerosis. The reference cited by the Examiner merely teaches that ketolides can combat bacterial infections. The prior art teaches that chlamydia pneumonia does not cause atherosclerosis but has been found as being useful as an

antibacterial agent to combat increase in the disease and this is not the same. Applicant will concede that ketolides are known to be active against microorganisms including chlamydia pneumonia and this is the subject of the Argouridas et al patent. However, it was not known that ketolides had any anti-platelet aggregating activity and Applicant has discovered that in addition to the antibacterial activity of the ketolides exhibit an interesting anti-platelet aggregating activity and use the advantage for the original treatment of atherosclerosis such as myocardial infraction, cerebrovascular accidents and unstable angina following atherosclerosis. One of the advantages of Applicant's treatment is that it permits a reduction in the number of drugs used in such a situation since it usually requires anti-thrombotics, anti-hypertensives, hypocholesterolemiant and antibiotics for the treatment. Therefore, it is deemed that the patent is no way anticipates or renders obvious Applicant's invention and withdrawal of this ground of rejection is requested.

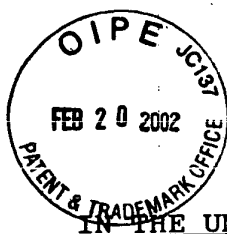
In view of the amendments to the claims and the above remarks, it is believed that the claims clearly point out Applicant's patentable contribution and favorable reconsideration of the application is requested.

Respectfully submitted,
Bierman, Muserlian and Lucas

By:


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CAM:ds



Marked up version
of claims

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MAR 06 2002

Our Ref.: 146.1339

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TECH CENTER 1600/2900

In re Application of:
PCT/FR98/02436
Francis PETIT
Serial No.:
Filed: Concurrently Herewith
For: USE OF...ATHEROSCLEROSIS

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: PCT Date: November 16, 1998
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600 Third Avenue
New York, NY 10016

PRELIMINARY AMENDMENT

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Please amend this application as follows:

IN THE SPECIFICATION:

Page 1, before line 1, insert

--This application is a 371 of PCT/FR98/02436 filed
November 16, 1998.--

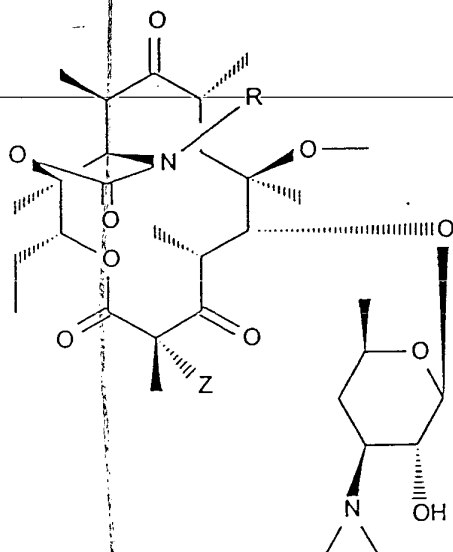
IN THE CLAIMS:

Cancel claims 1, 2 and 7 and add the following claims.

--8. *combating the development of*
A method of ~~preventing~~ arterial thrombotic complications
~~associated with~~ atherosclerosis in warm-blooded animals comprising
administering to warm-blooded animals an effective amount of a

ketolide or its non-toxic, pharmaceutically acceptable acid addition salts sufficient to ^{combat the development of} prevent ~~arterial thrombotic~~ complications associated with atherosclerosis.

9. The method of claim 8 wherein the ketolide has the formula



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wherein R is $-(CH_2)_mO_n(X)YAr$, m and n are individually 0 or 1, X is selected from the group consisting of $-(NH_a)-$, $-CH_2-$ and $-SO_2-$, a is 0 or 1, Y is $-(CH_2)_b-(CH=CH)_c-(CH_2)_d-$, c is 0 or 1, $b + c + d \leq 8$, Z is hydrogen or halogen and Ar is unsubstituted or substituted phenyl or heteroaryl.

Claim 3, cancel line 1 and insert --The method of claim 8 wherein the--.

Claims 4, 5 and 6, cancel line 1 of each and insert --The